

Redressal Stage 1: Receipt of the Complaint

Stage 1 Outline

Receipt of the Complaint:

1. Receive and acknowledge receipt of complaint
2. Meet and talk to the complainant to discuss options of informal/formal resolution
3. Start Informal/formal mechanism as chosen by complainant
4. Inform the Respondent and ask for a response

1. Receive and Acknowledge Receipt of Complaint

- The complainant submits a sexual harassment complaint in writing within three months of the last alleged incident to the ICC.
- The complaint should be reviewed to see that it is satisfactory.
- The complainant will be notified in writing to acknowledge receipt.

A satisfactory complaint:

- In the context of workplace that the sexual harassment complaint is to be met with under the Act, such as, Service Rules, Workplace Policy, Vishaka Guidelines and related laws.
 - The respondent displayed a potential act of workplace sexual harassment
 - The behaviour was directed at and harmed the complainant
 - The behaviour occurred at any unit of the institute or any event of work
- Clarity in the complaint
- Additional information/evidence from the complainant

2. Meet the complainant

- Meet and talk to the complainant
- The complainant needs to be informed of the full procedure of redress followed by the ICC
- Explore options of informal procedure and formal procedure with the complainant – **it is her choice to make**

3a. Informal redress mechanism

- Informal options:
 - ◆ counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour
 - ◆ appointing a neutral person to act as a conciliator between the parties
- Choice made by complainant:
 - ◆ Exception: the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route.
 - ◆ Even if the ICC thinks informal redress is enough to resolve the situation, the final choice is made by the complainant

At no point will the ICC ask the complainant to

3b. Formal redress mechanism

- If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the Complaints Committee responds to the complaint.
- Complaints Committee/s members must be free of any conflict of interest with either the concerned parties or with the outcome.
- If an independent member is hired for the case, ensure that the independent third party member has sound knowledge, skill, and experience in dealing with workplace sexual harassment complaints.

4. Inform the Respondent

- Within 7 days of receiving a complaint, the Complaints Committee will inform the respondent in writing that a complaint has been received.
- The respondent will have an opportunity to respond to the complaint in writing within 10 days thereafter

Redressal Stage 2:

Planning Carefully

Stage 2

Planning carefully:

1. Prepare the file
2. Consideration: interim measures and support for the complainant

1. Prepare the file

1.	Documentation	Create an independent confidential (computer) file of the complaint and all subsequent related documentation.
2.	Review Law and policy	Have a clear knowledge and understanding of the Act/Rules as well as the relevant Service Rules, Workplace Policy, Vishaka Guidelines, existing practices and related laws.
3.	List of witnesses	<ul style="list-style-type: none">• Witness names provided by the complainant• Witness names provided by the respondent• Any person as a witness, who ICC believes, has something to contribute to the inquiry process.
4.	Supporting documents	Obtain and review all supporting documents relevant to the complaint, including those presented by the complainant and the respondent in their written complaints/responses
5.	Timeline	List of dates and events relating to the written complaint and the written reply from the respondent
6.	Create a plan	Roadmaps and checklists for the following stages in order to conduct a fair enquiry

1. Prepare the file: Create a plan

Key elements to consider:

- Defining the Issues:
 - What is the complaint
 - Questions or points that require clarification
- Determining a violation of the Policy/Act
 - What information is needed to determine that there has been a violation
- Logistics
 - Venue for conducting the interviews. Are special logistics required
 - Creating timelines for each

2. Consideration

- Interim Measures while the enquiry is ongoing :
 - A complainant can make a written request for her transfer or the transfer of the respondent, or for leave (upto 3 months).
 - She can request the ICC to restrain the respondent from reporting on her work performance or writing her confidential report or supervising her academic

2. Consideration

- Support:

- Maintain clear, timely communication with the parties throughout the process.

- Provide complainants with any specific assistance they may require, such as counselling, addressing health-related concerns or sanctioning of leave.

Redressal Stage 3:

Interviews

Stage 3

Interviews:

- Prepare an interview plan:
 - ◆ Complainant,
 - ◆ Respondent,
 - ◆ Witnesses
- Assess completeness of the information collected

1. Prepare an interview plan

- Based on the results of the previous steps and before conducting interviews, the Complaints Committee should decide which issues need to be pursued for questioning.
- Determine beforehand the following:
 - Date, place, time and order of interviews
 - Questions and their orders
 - Time for each interview
- Interviews are meant to obtain information that is relevant to the complaint from individuals.
- Interviews should be conducted with each person separately and in confidence. The complainant and the respondent should not be brought face to face with each other.

Interviewing tips

1.	Introduction	ICC should try to proceed with empathy, even when they feel that a different version of facts are being presented
2.	Questioning	<ul style="list-style-type: none">● Rely on questions like who, what, when, where, how● Questions should be clear and focused● Determine beforehand order of questions● Do not share information gathered from other sources● Obtain as much information as possible
3.	Choice of location	To create trust, comfort and openness
4.	Explain interview process	How the interview will be conducted, what is expected
5.	Records of interview	Take notes and keep proper records
6.	Manage interview	ICC chairperson ensures that due process is followed
7.	Sign statements	At the end of the interview, the interviewee has to sign and date statements recorded before the ICC

2. Assess Information

- Review the information gathered and their factual relevance to each aspect of the complaint.
- Determine whether there is enough information to make a finding on the complaint.

Redressal Stage 4:
Reasoning and Analysis

Stage 4

Reasoning and Analysis:

1. Analyse information gathered
2. Create a timeline of events from the information
3. Compare similarities or differences of statements from the interviewees

1. Analyse information gathered

- Identify the substance of each aspect of the complaint.
- Determine, whether or not, on a balance of probability, the unwelcome sexual harassment took place.
- Check that such behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules or law.
- Comment on any underlying factor(s) that may have contributed to the incident.

2. Create a timeline of events

- From interviews and written records of
 - Complainant
 - Respondent
 - Witnesses
 - Any person interviewed by ICC to help in the case

3. Compare statements

- Note similarities and differences in statements from the different interviewees
- Try to create a version of events that is most likely to have happened from the statements given by the interviewees.

Redressal Stage 5:

Findings and recommendations

Stage 5

Findings and
recommendations:

1. Conclude whether the complaint is upheld or not
2. Recommendations

1. Deriving Conclusions

- Based on the above, the Complaints Committee must arrive at a finding of whether the complaint is upheld, not upheld or inconclusive.
- Before finalising the findings, the ICC shall share its finding with both the parties and provide them an opportunity to make representation against it before the Committee.

2. Recommendations

- Where the Complaints Committee is unable to uphold the complaint, it shall recommend no action.
- Where the Complaints Committee upholds the Complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include:
 - Disciplinary action, including a written reprimand, warning, censure, request for a written apology
 - Withholding promotion/ pay raise/ increment
 - Termination
 - Counselling
 - Community service

2. Recommendations – contd.

- The ICC may recommend financial damages to the complainant, taking into consideration:
 - Mental trauma, pain, suffering and emotional distress caused;
 - Medical expenses incurred;
 - Loss of career opportunity;
 - Income and financial status of the respondent.

If the amount is not paid it can be recovered as an arrear of land revenue.

- The Complaints Committee can also give additional recommendations to address the underlying factors contributing to sexual harassment at the workplace.

Redressal Stage 6:

Writing and Submission of Report

Stage 6

Writing and submission
of report:

1. Write the report
2. Submit the report to the employer

1. Writing the report

- A description of the different aspects of the complaint;
- A description of the process followed;
- A description of the background information and documents that support or refute each aspect of the complaint;
- An analysis of the information obtained;
- Findings as stated above;
- Recommendations.
- Remember: false claims, forged documents etc. from complainant, respondent, witnesses is an offense that may include punishments in your recommendations.

2. Submission of report

- The enquiry must be completed within 90 days of receipt of complaint.
- A report must be submitted to the employer within 10 days of completion of enquiry.
- The employer must act on the recommendations given in the report within 60 days of submission of report.
- This case and the outcome/actions taken will be noted by the ICC for the preparation of the annual report of workplace sexual harassment.